IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No.2228 of 2007

Hemant Ramesh Pisal ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Uday Warunjikar, i/b Ms Aparna More, Advocate for the applicant.

Mr K. V. Saste, APP for the State.

CORAM: V.C. DAGA,J.
DATED: 16TH JULY, 2007.

P.C.:-

1. Heard learned counsel for the applicant and learned APP for the State.

2. Perused application and the material available on record.

3. The applicant has invoked the jurisdiction of this Court under Section 439 of the Cr.P.C. in C.R. No. 55 of 2007 registered at Panvel Town Police Station for the offence punishable under Sections 302, 342 read with Section 34 of the I.P.C. The applicant-accused has been arrested on 28.2.2007 and presently he is in jail. In the complaint four persons are implicated including the applicant. Three of them are absconding. Rajendra Ganesh Jadhav is eye

witness to the incident. Under these circumstances, the grounds on which learned Additional Sessions Judge(I), Raigad has rejected the bail application still hold good.

Para 5 of the said order reads as under:

> After going through the case paper it appears that Rajendra Jadhav is witness to the incident. At the relevant time he was at the house of Dr. Shinde. He had seen present applicant accused while tieing deceased to the electrical pole and then beaten by means of stick. It is in the statement of Rambhaadur Kumar that he was on patrolling duty. At the relevant time when he had been to the spot. Dr. Shinde directed him to tie deceased to electrical pole. He had seen Dr. Shinde and others while tieing deceased to electrical pole by means of rope. Then there is evidence of Tekbahadur. He is a watchman. Then there is evidence of Kiran Shelke who also seen accused while beating and tieing deceased to the electrical pole. The death of deceased is caused due to head injury. Evidence of witnesses clearly discloses that it is present accused who has assaulted deceased by means of bamboo stick on his head.

Considering these circumstances and evidence collected by the prosecution , I am of the view that it is not fit case in which accused should be released on bail. There is sufficient evidence as against the accused for the offence punishable under Section 302 of the I.P.C. Punishment for the offence under section 302 of the I.P.C. is life imprisonment or death. Thus, it is not desirable to release accused on bail.

4. In the above circumstances, this is not a fit case for grant of bail. The application is,therefore, rejected.

(V.C. DAGA,J.)